

taking into account the maturities involved and reasonable administrative costs;

(2) Have a maturity acceptable to the Bank;

(3) Be subject to any prepayment, commitment, or other appropriate fees of the Bank; and

(4) Be adequately secured by collateral acceptable to the Bank.

§ 935.21 Scope.

With the exception of § 935.13, and except as otherwise provided in § 935.20 and § 935.24, the requirements of subpart A of this part apply to this subpart.

§ 935.22 Nonmember mortgagee eligibility requirements.

(a) *Authority.* Subject to the provisions of the Act and this subpart, a Bank may make advances to an entity that is not a member of the Bank if the Bank has certified the entity as a nonmember mortgagee.

(b) *Eligibility requirements.* A Bank may certify as a nonmember mortgagee any applicant that meets the following requirements:

(1) The applicant is approved under title II of the National Housing Act (12 U.S.C. 1707, *et seq.*);

(2) The applicant is a chartered institution having succession;

(3) The applicant is subject to the inspection and supervision of some governmental agency;

(4) The principal activity of the applicant in the mortgage field consists of lending its own funds; and

(5) The financial condition of the applicant is such that advances may be safely made to it.

(c) *Satisfaction of eligibility requirements—*(1) *HUD approval requirement.* An applicant shall be deemed to meet the requirement in section 10b(a) of the Act and paragraph (b)(1) of this section that it be approved under title II of the National Housing Act if it submits a current HUD Yearly Verification Report or other documentation issued by HUD stating that the Federal Housing Administration of HUD has approved the applicant as a mortgagee.

(2) *Charter requirement.* An applicant shall be deemed to meet the requirement in section 10b(a) of the Act and

paragraph (b)(2) of this section that it be a chartered institution having succession if it provides evidence satisfactory to the Bank, such as a copy of, or a citation to, the statutes and/or regulations under which the applicant was created, that:

(i) The applicant is a government agency; or

(ii) The applicant is chartered under state, federal, local, tribal, or Alaska Native village law as a corporation or other entity that has rights, characteristics, and powers under applicable law similar to those granted a corporation.

(3) *Inspection and supervision requirement.* An applicant shall be deemed to meet the inspection and supervision requirement in section 10b(a) of the Act and paragraph (b)(3) of this section if it provides evidence satisfactory to the Bank, such as a copy of, or a citation to, relevant statutes and/or regulations, that, pursuant to statute or regulation, the applicant is subject to the inspection and supervision of a federal, state, local, tribal, or Alaska native village governmental agency. An applicant shall be deemed to meet the inspection requirement if there is a statutory or regulatory requirement that the applicant be audited or examined periodically by a governmental agency or by an external auditor. An applicant shall be deemed to meet the supervision requirement if the governmental agency has statutory or regulatory authority to remove an applicant's officers or directors for cause or otherwise exercise enforcement or administrative control over actions of the applicant. For purposes of this paragraph (c)(3), the term "governmental agency" includes the governor, legislature, and any other component of a federal, state, local, tribal, or Alaska native village government with authority to act for or on behalf of that government.

(4) *Mortgage activity requirement.* An applicant shall be deemed to meet the mortgage activity requirement in section 10b(a) of the Act and paragraph (b)(4) of this section if it provides documentary evidence satisfactory to the Bank, such as a financial statement or other financial documents that include the applicant's mortgage loan assets and their funding liabilities, that it

lends its own funds as its principal activity in the mortgage field. Lending funds includes, but is not limited to, the purchase of whole mortgage loans. In the case of a federal, state, local, tribal, or Alaska Native village government agency, appropriated funds shall be considered an applicant's own funds. An applicant shall be deemed to satisfy this requirement notwithstanding that the majority of its operations are unrelated to mortgage lending if its mortgage activity conforms to this requirement. An applicant that acts principally as a broker for others making mortgage loans, or whose principal activity is to make mortgage loans for the account of others, does not meet this requirement.

(5) *Financial condition requirement.* An applicant shall be deemed to meet the financial condition requirement in paragraph (b)(5) of this section if the Bank determines that advances may be safely made to the applicant. The applicant shall submit to the Bank copies of its most recent regulatory audit or examination report, or external audit report, and any other documentary evidence, such as financial or other information, that the Bank may require to make the determination.

(d) *State housing finance agencies.* In addition to meeting the requirements in paragraph (b) of this section, any applicant seeking access to advances as a SHFA pursuant to § 935.24(b)(2) shall provide evidence satisfactory to the Bank, such as a copy of, or a citation to, the statutes and/or regulations describing the applicant's structure and responsibilities, that the applicant is a state housing finance agency as defined in § 935.1.

(e) *Ineligibility.* Except as otherwise provided in this subpart, if an applicant does not satisfy the requirements of this subpart, the applicant is ineligible to be certified as a nonmember mortgagee.

(The Office of Management and Budget approved the information collection requirements contained in this section and assigned control number 3069–0005 with an expiration date of November 30, 1999)

§ 935.23 Nonmember mortgagee application process.

(a) *Authority.* The Banks are authorized to approve or deny all applications for certification as a nonmember mortgagee, subject to the requirements of the Act and this subpart. A Bank may delegate the authority to approve applications for certification as a nonmember mortgagee only to a committee of the Bank's board of directors, the Bank president, or a senior officer who reports directly to the Bank president other than an officer with responsibility for business development.

(b) *Application requirements.* An applicant for certification as a nonmember mortgagee shall submit an application that satisfies the requirements of the Act and this subpart to the Bank of the district in which the applicant's principal place of business, as determined in accordance with part 933 of this chapter, is located.

(c) *Application process—(1) Action on applications.* A Bank shall approve or deny an application for certification as a nonmember mortgagee within 60 calendar days of the date the Bank deems the application to be complete. A Bank shall deem an application complete, and so notify the applicant in writing, when it has obtained all of the information required by this subpart and any other information it deems necessary to process the application. If a Bank determines during the review process that additional information is necessary to process the application, the Bank may deem the application incomplete and stop the 60-day time period by providing written notice to the applicant. When the Bank receives the additional information, it shall again deem the application complete, so notify the applicant in writing, and resume the 60-day time period where it stopped.

(2) *Decision on applications.* The Bank or a duly delegated committee of the Bank's board of directors, the Bank president, or a senior officer who reports directly to the Bank president other than an officer with responsibility for business development shall approve, or the board of directors of a Bank shall deny, each application for certification as a nonmember mortgagee by a written decision resolution